

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN EARL CAMPBELL,
Plaintiff,
v.
NATIONAL PASSENGER RAILROAD
CORPORATION, et al.,
Defendants.

No. C 05-5434 CW
ORDER ON MOTIONS IN
LIMINE

As explained at the final pre-trial conference on January 13, 2009, the Court rules on the parties' motions in limine as follows.

Plaintiff's Motions in Limine:

No. 1: Exclude evidence of Plaintiff's email address	Granted
No. 2: Exclude evidence of unrelated train accidents and derailments	Denied, except that accidents must have resulted from rule violations similar to Plaintiff's
No. 3: Exclude evidence of Plaintiff's prior misdemeanor	Granted
No. 4: Exclude evidence of Plaintiff's dispute with Terry Province	Granted
No. 5: Exclude "surprise witnesses" and testimony based on undisclosed documents or evidence	Granted

No. 6: Exclude lay opinion regarding Plaintiff's prior accidents	Denied, provided witnesses establish that their training and experience qualifies them to present opinion testimony on the matters in question
No. 7: Exclude Plaintiff's prior race complaints	Granted ¹
No. 8: Exclude evidence of promotions of African-American employees outside the Pacific Division	Granted
No. 9: Exclude evidence of promotions of African-American men for engineer training after August, 2004	Granted with respect to promotions that took place after Plaintiff filed his complaint of race discrimination only

Defendant's Motions in Limine:

No. 1: Exclude evidence of racist comments	Granted with respect to comments (2), (4) and (6); denied with respect to comments (1), (3), (5) and (7); ruling deferred with respect to other comments Plaintiff may seek to introduce at trial
No. 2: Exclude evidence of the treatment of other Amtrak employees who committed rule violations	Denied; Defendant may attempt to persuade the jury that such employees were not similarly situated

¹The Court inadvertently failed to inform the parties at the hearing that this motion was granted.

No. 3: Exclude "sham statistical evidence"	Granted, except that if Defendant introduces non-expert testimony on African-American employees promoted to or serving in certain positions, Plaintiff may rebut with similar evidence
No. 4: Exclude "time-barred events"	Granted with respect to Plaintiff's previous applications for engineer positions; denied with respect to Plaintiff's previous rule violations
No. 5: ² Exclude surreptitious audiotape recording	Granted

IT IS SO ORDERED.

Dated: 2/2/09



CLAUDIA WILKEN
United States District Judge

²Defendant's papers refer to this motion as "No. 6," but there are only five motions.